

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHNNY LEE MILLER,

Defendant.

MEMORANDUM DECISION AND
ORDER DENYING MOTION TO BE
RETURNED TO FEDERAL
CUSTODY

Case No. 2:00-CR-210 TS

This matter is before the Court on Defendant's Motion to be Returned to Federal Custody. For the reasons discussed below, the Motion will be denied without prejudice to it being filed as a petition under 28 U.S.C. § 2241.

I. BACKGROUND

On May 17, 2000, Defendant was charged in a three-count Indictment with Armed Bank Robbery. On June 26, 2000, Defendant pleaded guilty to all three counts, and the Court sentenced him to a term of 146 months incarceration on September 27, 2000. Judgment was entered October 11, 2000, and amended October 19, 2000.

Defendant alleges that he was arrested on state charges while serving time as a federal inmate at a federal halfway house. Defendant argues that the arrest was unlawful and that he should be returned to federal custody so that he may complete his federal sentence.

II. DISCUSSION

Defendant's Motion requests that he be returned to federal custody and argues that his detention by state officials is unlawful. The claims raised by Defendant's Motion are more appropriately addressed by filing a petition under 28 U.S.C. § 2241 because he is attacking "the execution of a sentence rather than its validity."¹ Therefore, the Court will deny Defendant's request that the Court return him to federal custody without prejudice. Defendant may pursue his claims by filing a petition pursuant to 28 U.S.C. § 2241 in the district in which he is confined.


III. CONCLUSION

It is therefore

ORDERED that Defendant's Motion to be Returned to Federal Custody (Docket No. 65) is DENIED WITHOUT PREJUDICE.

DATED September 12, 2011.

BY THE COURT:



TED STEWART
United States District Judge

¹*Bradshaw v. Story*, 86 F.3d 164, 166 (10th Cir. 1996).